

CLERK OF THE COURT

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Jan 05 2016 02:27 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

NOTC

Duane E. Shinnick, Esq.

Bar No. 7176

Courtney K. Lee, Esq.

Bar No. 8154

SHINNICK, RYAN & RANSAVAGE P.C.

4001 Meadows Lane

Las Vegas, NV 89107

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

SCOTT PHILLIPS, individually; TEODORO) CASE NO. A-15-714632-D

H. and ROSA-LINDA R. BAUTISTA,)
individually; BROWER FAMILY TRUST,) DEPT. NO. XXII

individually; CHARLES COLUCCI,)

individually; HARRY E. CROSBY)

REVOCABLE TRUST; DR. KAREN)

FELDMAN, individually; COLLEEN T. SAN)

FILIPPO, individually; THE GILLES FAMILY) **AMENDED NOTICE OF APPEAL**

LIVING TRUST, DATED JANUARY 14,)

2010; DAVID M. GORDON, individually;)

CHARLES and MARIA HEARN, individually;)

THOMAS C. and KATHLEEN A. JOHNSON,)

individually; AARON KNUDSON,)

individually; LORRAINE JOHNSON,)

individually; JOLEAN JONES, individually;)

YOUNG KYOON KIM and INOK KIM,)

individually; MIKE and TALIA LAQUITARA,)

individually; JAMES and ANDRONICKIE)

LAUTH, individually; LEPORE FAMILY)

TRUST DATED OCTOBER 30, 2008; JOHN)

LEVERITT, individually; ROGER A. MARTIN)

AND VIRGINIA C. MARTIN JOINT LIVING)

TRUST; MASLIN FAMILY LIVING TRUST)

DATED JANUARY 24, 2011; THOMAS)

MEYERS and MARY C. MONICA-MEYERS,)

individually; MARK MONACO, individually;)

SAMIR FARID MOUJAES AND SYLVA)

PUZANTIAN MOUJAES LIVING TRUST)

u/t/d August 13, 2013; BUD O'BRIEN and)

ROSALIE O'BRIEN, individually; DAVID L.)

POWELL and JUNE D. COOPER, individually;)

RANDALL and NICOLE ROEDECKER,)

1 individually; EUGENIUSZ and ZOFIA
2 SUCHECKI, individually; GARY G. TON,
3 individually; ROY and SHARON VAN
4 SLYKE, individually; LAUREL YVONNE
5 WEAVER, individually; SCOTT M. ZIPKIN
6 and ROBERT A. & ELLEN R. ZIPKIN,
7 individually; MICHAEL J. and GLORIA NAN
8 CONNOLLY, individually; ROBERT and
9 CONCETTA GAYNOR, individually;
10 HECTOR G. and ROSARIO GARCIA,
11 individually; JAMES A. HENDERSON JR.,
12 individually; HOWARD S. and ROBERTA P.
13 LEVINE, individually; KURT FIELD and
14 CRISTEN BOLANDER-FIELD, individually;
15 BOBBIE SMITH, individually; CHAD and
16 ALLICIA TOMOLO, individually; WILLIAM
17 and CONNIE MCDERMOTT, individually;
18 SYDNEY WOO, individually; PREMIERE
19 HOLDINGS RESIDENTIAL DIVISION, LLC,
20 a Nevada Limited-Liability Company; VEROL
21 R. and DEBRA A. BELLINFANTE,
22 individually; ALFREDO and ILUMINADA
23 CAMPOS, individually; WYNSIE MARIE
24 CHAN, individually; ROBERT M. DYKEMA,
25 individually; BROCK and REANNA FOSTER,
26 individually; J C F FAMILY TRUST; WI JO
27 KANG and CHONG-JA KANG, individually;
28 TAKESHI NAKAYA, individually; DIONISIO
ONG, individually; POURZIAEE ERAJ AND
SEDI POURZIAEE JOINT LIVING TRUST;
JOSEPH and MILAGROS RIVERA,
individually; SALISBURY FAMILY TRUST;
WILLIAM A. and CYNTHIA J. SHOOP,
individually; RONALD TURNER, individually;
BRENT and SARA URE, individually;
WILLIAM R. and NANCY WALLEY, JR.,
individually; KIEL YOST, individually;
STEVEN and MARIA MOORE, individually;

Plaintiffs,

v.

DEL WEBB COMMUNITIES, INC., an
Arizona Corporation; and DOES 1 through 500,
inclusive,

Defendants.

1 Amended Notice is hereby given that Plaintiffs Ronald Turner ("Turner") and Robert M. Dykema
2 ("Dykema") appeal to the Supreme Court of Nevada from the District Court Final Judgment entered on
3 December 24, 2015 and the District Court Order entered on November 25, 2015, which granted
4 Defendant Del Webb Communities, Inc.'s ("Del Webb") Motion to Dismiss Plaintiffs Turner and
5 Dykema. The entry of dismissal for Plaintiffs Turner and Dykema operated as a summary adjudication
6 on the merits as matters outside of the pleadings were presented and considered by the District Judge in
7 granting the dismissals or deciding that Turner's and Dykema's claims were barred by the statute(s) of
8 repose and/or limitations.
9

10
11 DATED this 26th day of December, 2015.

12 Respectfully Submitted,

13 SHINNICK, RYAN & RANSAVAGE P.C.

14
15 By: 

16 Duane E. Shinnick, Esq.

17 Bar No. 7176

18 Courtney K. Lee, Esq.

19 Bar No. 8154

20 4001 Meadows Lane

21 Las Vegas, NV 89107

22 Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE

I, JESSICA WHITE, declare:

I am a resident of and employed in Clark County, Nevada. I am over the age of eighteen years and not a party to the within action. My business address is 4001 Meadows Lane, Las Vegas, NV 89107.

On December 28th, 2015, I served the documents described as **AMENDED NOTICE OF APPEAL** in Case No. A-15-714632-D on the following parties:

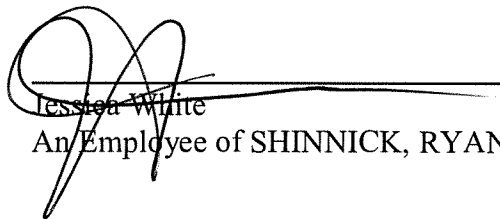
Jason W. Williams, Esq. Richard D. Young, Esq. KOELLER NEBEKER CARLSON & HALUCK, LLP 300 S. Fourth Street, Suite 500 Las Vegas, NV 89101

X VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to the above named attorney at the law offices of KOELLER NEBEKER CARLSON & HALUCK, LLP, counsel of record for Defendant Del Webb Communities, Inc.

X VIA E-SERVICE: on all counsel of record through the Clark County District Court Electronic Filing Program per Wiznet – Odyssey File and Serve.

I declare that the foregoing is true and correct.

Executed at Las Vegas, Nevada, on December 28th, 2015.


Jessica White
An Employee of SHINNICK, RYAN & RANSAVAGE P.C.

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Scott Phillips, Plaintiff(s)
vs.
Del Webb Communities, Inc. , Defendant(s)

§
§
§
§
§
§

Location: **Department 22**
Judicial Officer: **Johnson, Susan**
Filed on: **02/27/2015**
Cross-Reference Case Number: **A714632**
Supreme Court No.: **69335**

CASE INFORMATION

Case Type: **Chapter 40**
Case Flags: **Appealed to Supreme Court**
Jury Demand Filed
Request for Exemption Pending

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-15-714632-D
Court	Department 22
Date Assigned	02/27/2015
Judicial Officer	Johnson, Susan

PARTY INFORMATION

		<i>Lead Attorneys</i>
Plaintiff	Bautista, Rosa-Linda R	Shinnick, Duane E. <i>Retained</i> 702-631-8014(W)
	Bautista, Teodoro H	Shinnick, Duane E. <i>Retained</i> 702-631-8014(W)
	Bellinfante, Debra A	Shinnick, Duane E. <i>Retained</i> 702-631-8014(W)
	Bellinfante, Verol R	Shinnick, Duane E. <i>Retained</i> 702-631-8014(W)
	Boulander-Field, Cristen	Shinnick, Duane E. <i>Retained</i> 702-631-8014(W)
	Brower Family Trust	Shinnick, Duane E. <i>Retained</i> 702-631-8014(W)
	Campos, Alfredo	Shinnick, Duane E. <i>Retained</i> 702-631-8014(W)
	Campos, Iluminada	Shinnick, Duane E. <i>Retained</i> 702-631-8014(W)
	Chan, Wynsie Marie	Shinnick, Duane E. <i>Retained</i> 702-631-8014(W)
	Colucci, Charles	Shinnick, Duane E.

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Connolly, Gloria Nan

Retained
702-631-8014(W)

Shinnick, Duane E.
Retained
702-631-8014(W)

Connolly, Michael J

Shinnick, Duane E.
Retained
702-631-8014(W)

Cooper, June D

Shinnick, Duane E.
Retained
702-631-8014(W)

Dykema, Robert M

Shinnick, Duane E.
Retained
702-631-8014(W)

Feldman, Karen

Shinnick, Duane E.
Retained
702-631-8014(W)

Field, Kurt

Shinnick, Duane E.
Retained
702-631-8014(W)

Foster, Brock

Shinnick, Duane E.
Retained
702-631-8014(W)

Foster, Reanna

Shinnick, Duane E.
Retained
702-631-8014(W)

Garcia, Hector G

Shinnick, Duane E.
Retained
702-631-8014(W)

Garcia, Rosario

Shinnick, Duane E.
Retained
702-631-8014(W)

Gaynor, Concetta

Shinnick, Duane E.
Retained
702-631-8014(W)

Gaynor, Robert

Shinnick, Duane E.
Retained
702-631-8014(W)

Gilles Family Living Trust

Shinnick, Duane E.
Retained
702-631-8014(W)

Gordon, David M

Shinnick, Duane E.
Retained
702-631-8014(W)

Harry E Crosby Revocable Trust

Shinnick, Duane E.
Retained
702-631-8014(W)

Hearn, Charles

Shinnick, Duane E.
Retained
702-631-8014(W)

Hearn, Maria

Shinnick, Duane E.
Retained

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Henderson, James A, Jr.

702-631-8014(W)

Shinnick, Duane E.
Retained

702-631-8014(W)

J C F Family Trust

Shinnick, Duane E.
Retained

702-631-8014(W)

Johnson, Kathleen A

Shinnick, Duane E.
Retained

702-631-8014(W)

Johnson, Lorraine

Shinnick, Duane E.
Retained

702-631-8014(W)

Johnson, Thomas C

Shinnick, Duane E.
Retained

702-631-8014(W)

Jones, Jolean

Shinnick, Duane E.
Retained

702-631-8014(W)

Kang, Chong-Ja

Shinnick, Duane E.
Retained

702-631-8014(W)

Kang, Wi Jo

Shinnick, Duane E.
Retained

702-631-8014(W)

Kim, Inok

Shinnick, Duane E.
Retained

702-631-8014(W)

Kim, Young Kyoan

Shinnick, Duane E.
Retained

702-631-8014(W)

Knudson, Aaron

Shinnick, Duane E.
Retained

702-631-8014(W)

Laquitara, Mike

Shinnick, Duane E.
Retained

702-631-8014(W)

Laquitara, Talia

Shinnick, Duane E.
Retained

702-631-8014(W)

Lauth, Andronickie

Shinnick, Duane E.
Retained

702-631-8014(W)

Lauth, James

Shinnick, Duane E.
Retained

702-631-8014(W)

Lepore Family Trust

Shinnick, Duane E.
Retained

702-631-8014(W)

Leveritt, John

Shinnick, Duane E.
Retained

702-631-8014(W)

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Levine, Howard S

Shinnick, Duane E.
Retained
702-631-8014(W)

Levine, Roberta P

Shinnick, Duane E.
Retained
702-631-8014(W)

Maslin Family Living Trust

Shinnick, Duane E.
Retained
702-631-8014(W)

McDermott, Connie

Shinnick, Duane E.
Retained
702-631-8014(W)

McDermott, William

Shinnick, Duane E.
Retained
702-631-8014(W)

Meyers, Thomas

Shinnick, Duane E.
Retained
702-631-8014(W)

Monaco, Mark

Shinnick, Duane E.
Retained
702-631-8014(W)

Monica-Meyers, Mary C

Shinnick, Duane E.
Retained
702-631-8014(W)

Moore, Maria

Shinnick, Duane E.
Retained
702-631-8014(W)

Moore, Steven

Shinnick, Duane E.
Retained
702-631-8014(W)

Nakaya, Takeshi

Shinnick, Duane E.
Retained
702-631-8014(W)

O'Brien, Bud

Shinnick, Duane E.
Retained
702-631-8014(W)

O'Brien, Rosalie

Shinnick, Duane E.
Retained
702-631-8014(W)

Ong, Dionisio

Shinnick, Duane E.
Retained
702-631-8014(W)

Phillips, Scott

Shinnick, Duane E.
Retained
702-631-8014(W)

Pourziaee Eraj and Sedi Pourziaee Joint Living Trust

Shinnick, Duane E.
Retained
702-631-8014(W)

Powell, David L

Shinnick, Duane E.
Retained
702-631-8014(W)

Premiere Holdings Residential Division LLC

Shinnick, Duane E.

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Rivera, Joseph

Retained
702-631-8014(W)

Shinnick, Duane E.
Retained
702-631-8014(W)

Rivera, Milagros

Shinnick, Duane E.
Retained
702-631-8014(W)

Roedecker, Nicole

Shinnick, Duane E.
Retained
702-631-8014(W)

Roedecker, Randall

Shinnick, Duane E.
Retained
702-631-8014(W)

Roger A Martin and Virginia C Martin Joint Living Trust

Shinnick, Duane E.
Retained
702-631-8014(W)

Salisbury Family Trust

Shinnick, Duane E.
Retained
702-631-8014(W)

Samir Farid Moujaes and Sylva Puzantian Moujaes Living Trust

Shinnick, Duane E.
Retained
702-631-8014(W)

San Filippo, Colleen T

Shinnick, Duane E.
Retained
702-631-8014(W)

Shoop, Cynthia J

Shinnick, Duane E.
Retained
702-631-8014(W)

Shoop, William A

Shinnick, Duane E.
Retained
702-631-8014(W)

Smith, Bobbie

Shinnick, Duane E.
Retained
702-631-8014(W)

Sucheki, Eugeniusz

Shinnick, Duane E.
Retained
702-631-8014(W)

Sucheki, Zofia

Shinnick, Duane E.
Retained
702-631-8014(W)

Tomolo, Allicia

Shinnick, Duane E.
Retained
702-631-8014(W)

Tomolo, Chad

Shinnick, Duane E.
Retained
702-631-8014(W)

Ton, Gary G



Shinnick, Duane E.
Retained
702-631-8014(W)

Turner, Ronald











Shinnick, Duane E.
Retained

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D


		702-631-8014(W)
Ure, Brent	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Ure, Sara	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Van Slyke, Roy	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Van Slyke, Sharon	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Walley JR, William R	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Walley, Nancy	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Weaver, Laurel Yvonne	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Woo, Sydney	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Yost, Kiel	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Zipkin, Ellen R	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Zipkin, Robert A	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Zipkin, Scott M	Shinnick, Duane E. <i>Retained</i>	702-631-8014(W)
Defendant	Del Webb Communities, Inc.	Young, Richard D <i>Retained</i>

DATE	EVENTS & ORDERS OF THE COURT	INDEX
02/27/2015	 Complaint (CD, Complex) Filed By: Plaintiff Phillips, Scott <i>Construction Defect Complaint</i>	
02/27/2015	Case Opened	
03/06/2015	 Initial Appearance Fee Disclosure Filed By: Plaintiff Bellinfante, Verol R <i>Initial Appearance Fee Disclosure for Plaintiffs' First Amended Construction Defect Complaint</i>	

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

03/06/2015	 First Amended Complaint Filed By: Plaintiff Bellinfante, Verol R <i>Plaintiffs' First Amended Complaint</i>
04/28/2015	 Demand for Jury Trial Filed By: Plaintiff Phillips, Scott <i>Plaintiff's Demand For Jury Trial</i>
05/05/2015	 Affidavit of Service Filed By: Plaintiff Phillips, Scott <i>Affidavit of Service-Del Webb Communities, Inc.</i>
05/19/2015	 Motion to Dismiss Filed By: Defendant Del Webb Communities, Inc. <i>Del Webb Communities, Inc.'s Motion to Dismiss</i>
05/20/2015	 Initial Appearance Fee Disclosure Filed By: Defendant Del Webb Communities, Inc. <i>Defendant Del Webb Communities, Inc.'s Initial Appearance Fee Disclosure</i>
06/05/2015	 Opposition Filed By: Plaintiff Phillips, Scott <i>Plaintiffs' Limited Opposition To Del Webb Communities Inc.'s Motion To Dismiss</i>
06/17/2015	 Reply in Support Filed By: Defendant Del Webb Communities, Inc. <i>Del Webb's Reply in Support of Motion to Dismiss</i>
06/23/2015	 Motion to Dismiss (10:30 AM) (Judicial Officer: Johnson, Susan) <i>Del Webb Communities, Inc.'s Motion to Dismiss</i>
11/16/2015	 Decision (3:00 AM) (Judicial Officer: Johnson, Susan)
11/16/2015	 Findings of Fact, Conclusions of Law and Order <i>Order Re: Defendant Del Webb Communities, Inc.'s Motion to Dismiss</i>
11/16/2015	Order of Dismissal Without Prejudice (Judicial Officer: Johnson, Susan) Debtors: Del Webb Communities, Inc. (Defendant) Creditors: Steven Moore (Plaintiff), Maria Moore (Plaintiff) Judgment: 11/16/2015, Docketed: 11/23/2015
11/16/2015	Order of Dismissal (Judicial Officer: Johnson, Susan) Debtors: Del Webb Communities, Inc. (Defendant) Creditors: Robert M Dykema (Plaintiff), Ronald Turner (Plaintiff) Judgment: 11/16/2015, Docketed: 11/23/2015
11/25/2015	 Notice of Special Master Hearing Filed By: Plaintiff Johnson, Kathleen A <i>Notice of Special Master Hearing</i>
11/25/2015	 Notice of Entry Filed By: Defendant Del Webb Communities, Inc. <i>Notice of Entry of Order Re: Del Webb Communities, Inc.'s Motion to Dismiss</i>

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

12/02/2015	 Case Appeal Statement Filed By: Plaintiff Phillips, Scott <i>Case Appeal Statement</i>
12/02/2015	 Notice of Appeal Filed By: Plaintiff Phillips, Scott <i>Notice Of Appeal</i>
12/11/2015	 Answer to Complaint Filed by: Defendant Del Webb Communities, Inc. <i>Defendant Del Webb Communities, Inc.'s Answer to Plaintiffs' Complaint</i>
12/23/2015	 Judgment Filed By: Plaintiff Phillips, Scott <i>Final Judgment Re: Plaintiffs Ronald Turner And Robert Dykema</i>
12/24/2015	 Notice of Entry of Judgment Filed By: Plaintiff Phillips, Scott <i>Notice of Entry Order</i>
12/28/2015	 Amended Notice of Appeal Party: Plaintiff Phillips, Scott <i>Amended Notice Of Appeal</i>
12/28/2015	 Certificate of Service Filed by: Plaintiff Phillips, Scott <i>Certificate of Service</i>

DATE	FINANCIAL INFORMATION
	Defendant Del Webb Communities, Inc. Total Charges 473.00 Total Payments and Credits 473.00 Balance Due as of 12/29/2015 0.00
	Plaintiff Bautista, Rosa-Linda R Total Charges 30.00 Total Payments and Credits 30.00 Balance Due as of 12/29/2015 0.00
	Plaintiff Bautista, Teodoro H Total Charges 30.00 Total Payments and Credits 30.00 Balance Due as of 12/29/2015 0.00
	Plaintiff Bellinfante, Debra A Total Charges 30.00 Total Payments and Credits 30.00 Balance Due as of 12/29/2015 0.00
	Plaintiff Bellinfante, Verol R Total Charges 30.00 Total Payments and Credits 30.00 Balance Due as of 12/29/2015 0.00
	Plaintiff Boulander-Field, Cristen Total Charges 30.00 Total Payments and Credits 30.00 Balance Due as of 12/29/2015 0.00

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Plaintiff Brower Family Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Campos, Alfredo	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Campos, Iluminada	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Chan, Wynsie Marie	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Colucci, Charles	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Connolly, Gloria Nan	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Connolly, Michael J	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Cooper, June D	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Dykema, Robert M	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Feldman, Karen	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Field, Kurt	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Foster, Brock	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Foster, Reanna	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Plaintiff Garcia, Hector G	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Garcia, Rosario	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Gaynor, Concetta	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Gaynor, Robert	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Gilles Family Living Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Gordon, David M	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Harry E Crosby Revocable Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Hearn, Charles	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Hearn, Maria	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Henderson, James A, Jr.	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff J C F Family Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Johnson, Kathleen A	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Johnson, Lorraine	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Plaintiff Johnson, Thomas C	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Jones, Jolean	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Kang, Chong-Ja	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Kang, Wi Jo	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Kim, Inok	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Kim, Young Kyoona	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Knudson, Aaron	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Laquitar, Mike	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Laquitar, Talia	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Lauth, Andronickie	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Lauth, James	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Lepore Family Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Leveritt, John	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Plaintiff Levine, Howard S	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Levine, Roberta P	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Maslin Family Living Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff McDermott, Connie	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff McDermott, William	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Meyers, Thomas	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Monaco, Mark	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Monica-Meyers, Mary C	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Moore, Maria	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Moore, Steven	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Nakaya, Takeshi	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff O'Brien, Bud	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff O'Brien, Rosalie	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Plaintiff Ong, Dionisio	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Phillips, Scott	
Total Charges	544.00
Total Payments and Credits	544.00
Balance Due as of 12/29/2015	0.00
Plaintiff Pourziaee Eraj and Sedi Pourziaee Joint Living Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Powell, David L	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Premiere Holdings Residential Division LLC	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Rivera, Joseph	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Rivera, Milagros	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Roedecker, Nicole	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Roedecker, Randall	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Roger A Martin and Virginia C Martin Joint Living Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Salisbury Family Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Samir Farid Moujaes and Sylva Puzantian Moujaes Living Trust	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff San Filippo, Colleen T	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Plaintiff Shoop, Cynthia J	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Shoop, William A	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Smith, Bobbie	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Suchecki, Eugeniusz	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Suchecki, Zofia	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Tomolo, Allicia	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Tomolo, Chad	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Ton, Gary G	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Turner, Ronald	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Ure, Brent	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Ure, Sara	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Van Slyke, Roy	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Van Slyke, Sharon	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00

DEPARTMENT 22
CASE SUMMARY
CASE NO. A-15-714632-D

Plaintiff Walley JR, William R	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Walley, Nancy	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Weaver, Laurel Yvonne	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Woo, Sydney	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Yost, Kiel	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Zipkin, Ellen R	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Zipkin, Robert A	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Zipkin, Scott M	
Total Charges	30.00
Total Payments and Credits	30.00
Balance Due as of 12/29/2015	0.00
Plaintiff Turner, Ronald	
Appeal Bond Balance as of 12/29/2015	500.00

DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada A-15-714632-D

Case No. _____ XXII
(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s): Scott Phillips
2527 Findlater Street
Henderson, Nevada 89044
Attorney (name/address/phone): Courtney K. Lee, Esq.
SHINNICK RYAN & RANSAVAGE P.C.
4001 Meadows Lane
Las Vegas, NV 89107 (702) 631-8014

Defendant(s): Del Webb Communities, Inc.
8345 W. Sunset Road
Las Vegas, Nevada 89113
Attorney (name/address/phone):

II. Nature of Controversy (Please select the one most applicable filing type below)

Civil Case Filing Types

Real Property		Torts
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Torts <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate	Construction Defect & Contract	Judicial Review/Appeal
Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect <input checked="" type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil	Writ	Other Civil Filing
Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant	<input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

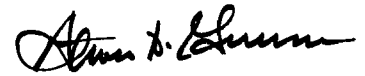
Business Court filings should be filed using the Business Court civil coversheet.

February 27, 2015

Date

/s/ Courtney K. Lee

Signature of initiating party or representative



CLERK OF THE COURT

JUDG

Duane E. Shinnick, Esq.

Bar No. 7176

Courtney K. Lee, Esq.

Bar No. 8154

SHINNICK, RYAN & RANSAVAGE P.C.

4001 Meadows Lane

Las Vegas, NV 89107

Tel. (702) 631-8014

Fax (702) 631-8024

clee@srfirms.com

Attorneys for PLAINTIFFS

DISTRICT COURT

CLARK COUNTY, NEVADA

SCOTT PHILLIPS, individually; TEODORO H.) CASE NO. A-15-714632-D

and ROSA-LINDA R. BAUTISTA, individually;)
BROWER FAMILY TRUST, individually;) DEPT. NO. XXIICHARLES COLUCCI, individually; HARRY E.)
CROSBY REVOCABLE TRUST; DR. KAREN) **FINAL JUDGMENT RE: PLAINTIFFS**
FELDMAN, individually; COLLEEN T. SAN) **RONALD TURNER AND ROBERT**
FILIPPO, individually; THE GILLES FAMILY) **DYKEMA**

LIVING TRUST, DATED JANUARY 14, 2010;)

DAVID M. GORDON, individually; CHARLES)

and MARIA HEARN, individually; THOMAS)

C. and KATHLEEN A. JOHNSON, individually;)

AARON KNUDSON, individually; LORRAINE)

JOHNSON, individually; JOLEAN JONES,)

individually; YOUNG KYOON KIM and INOK)

KIM, individually; MIKE and TALIA)

LAQUITARA, individually; JAMES and)

ANDRONICKIE LAUTH, individually;)

LEPORE FAMILY TRUST DATED OCTOBER)

30, 2008; JOHN LEVERITT, individually;)

ROGER A. MARTIN AND VIRGINIA C.)

MARTIN JOINT LIVING TRUST; MASLIN)

FAMILY LIVING TRUST DATED JANUARY)

24, 2011; THOMAS MEYERS and MARY C.)

MONICA-MEYERS, individually; MARK)

MONACO, individually; SAMIR FARID)

MOUJAES AND SYLVA PUZANTIAN)

MOUJAES LIVING TRUST u/t/d August 13,)

2013; BUD O'BRIEN and ROSALIE)

O'BRIEN, individually; DAVID L. POWELL)

and JUNE D. COOPER, individually;)

RANDALL and NICOLE ROEDECKER,)

individually; EUGENIUSZ and ZOFIA)

{00263896.DOC}

1 SUCHECKI, individually; GARY G. TON,
2 individually; ROY and SHARON VAN SLYKE,
3 individually; LAUREL YVONNE WEAVER,
4 individually; SCOTT M. ZIPKIN and ROBERT
5 A. & ELLEN R. ZIPKIN, individually;
6 MICHAEL J. and GLORIA NAN CONNOLLY,
7 individually; ROBERT and CONCETTA
8 GAYNOR, individually; HECTOR G. and
9 ROSARIO GARCIA, individually; JAMES A.
10 HENDERSON JR., individually; HOWARD S.
11 and ROBERTA P. LEVINE, individually; KURT
12 FIELD and CRISTEN BOLANDER-FIELD,
13 individually; BOBBIE SMITH, individually;
14 CHAD and ALLICIA TOMOLO, individually;
15 WILLIAM and CONNIE MCDERMOTT,
16 individually; SYDNEY WOO, individually;
17 PREMIERE HOLDINGS RESIDENTIAL
18 DIVISION, LLC, a Nevada Limited-Liability
19 Company; VEROL R. and DEBRA A.
20 BELLINFANTE, individually; ALFREDO and
21 ILUMINADA CAMPOS, individually;
22 WYNSIE MARIE CHAN, individually;
23 ROBERT M. DYKEMA, individually; BROCK
24 and REANNA FOSTER, individually; J C F
25 FAMILY TRUST; WI JO KANG and CHONG-
26 JA KANG, individually; TAKESHI NAKAYA,
27 individually; DIONISIO ONG, individually;
28 POURZIAEE ERAJ AND SEDI POURZIAEE
JOINT LIVING TRUST; JOSEPH and
MILAGROS RIVERA, individually;
SALISBURY FAMILY TRUST; WILLIAM A.
and CYNTHIA J. SHOOP, individually;
RONALD TURNER, individually; BRENT and
SARA URE, individually; WILLIAM R. and
NANCY WALLEY, JR., individually; KIEL
YOST, individually; STEVEN and MARIA
MOORE, individually;

Plaintiffs,

v.

DEL WEBB COMMUNITIES, INC., an Arizona
Corporation; and DOES 1 through 500,
inclusive,

Defendants.

1 **FINAL JUDGMENT**

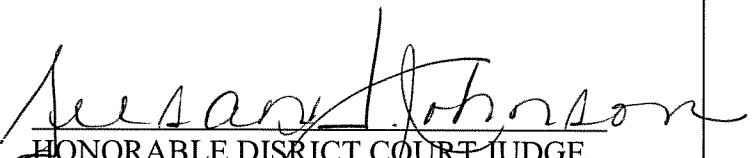
2 On June 23, 2015, before the Honorable Susan H. Johnson in Department XXII of the above-
3 referenced Court, Defendant brought on for hearing their Motion to Dismiss ("Motion") filed on May
4 19, 2015.

5
6 Duane E. Shinnick, Esq. of Shinnick, Ryan & Ransavage, P.C. appeared on behalf of Plaintiffs,
7 and Richard D. Young, Esq. of Koeller, Nebeker, Carlson & Haluck, LLP appeared on behalf of
8 Defendant Del Webb Communities, Inc. All other appearances noted on the record.


9 Pursuant to NRCP 54(b), the Court, finding there is no just reason for delay and upon the express
10 direction for the entry of final judgment, final judgment is hereby entered only as to Plaintiffs Ronald
11 Turner ("Turner") and Robert M. Dykema ("Dykema") based upon the Order dated November 25, 2015
12 ("Order"). The Order granted Defendant Del Webb Communities, Inc.'s ("Del Webb") Motion to
13 Dismiss Plaintiffs Turner and Dykema, inter alia. Because the Court considered material outside of the
14 pleadings - the notices of completion - in dismissing Plaintiffs Turner and Dykema, such dismissals
15 operated as summary judgments. The Order found that Turner's and Dykema's construction defect
16 claims are time-barred by the ten (10) Statute(s) of Repose, NRS 11.203 and/or limitations.
17
18

19 **IT IS SO ORDERED.**

20 DATED this 22nd day of Dec., 2015.

21
22
23 
HONORABLE DISTRICT COURT JUDGE
24
25 A714632 15

24 Respectfully Submitted by:
25 SHINNICK, RYAN & RANSAVAGE P.C.

26 By: 
27 Duane E. Shinnick, Esq.
Bar No. 7176
28 Courtney K. Lee, Esq.
Bar No. 8154
Attorneys for PLAINTIFFS

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CLERK OF THE COURT

NJUD

Duane E. Shinnick, Esq.
Bar No. 7176
Courtney K. Lee, Esq.
Bar No. 8154
SHINNICK, RYAN & RANSAVAGE P.C.
4001 Meadows Lane
Las Vegas, NV 89107
Tel. (702) 631-8014
Fax (702) 631-8024
dshinnick@srfirms.com

Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

SCOTT PHILLIPS, individually; TEODORO H.) CASE NO. A-15-714632-D
and ROSA-LINDA R. BAUTISTA, individually;)
BROWER FAMILY TRUST, individually;) DEPT. NO. XXII
CHARLES COLUCCI, individually; HARRY E.)
CROSBY REVOCABLE TRUST; DR. KAREN)
FELDMAN, individually; COLLEEN T. SAN)
FILIPPO, individually; THE GILLES FAMILY)
LIVING TRUST, DATED JANUARY 14, 2010;) **NOTICE OF ENTRY OF FINAL**
DAVID M. GORDON, individually; CHARLES) **JUDGMENT RE: PLAINTIFFS**
and MARIA HEARN, individually; THOMAS C.) **RONALD TURNER AND ROBERT**
and KATHLEEN A. JOHNSON, individually;) **DYKEMA**
AARON KNUDSON, individually; LORRAINE)
JOHNSON, individually; JOLEAN JONES,)
individually; YOUNG KYOON KIM and INOK)
KIM, individually; MIKE and TALIA)
LAQUITARA, individually; JAMES and)
ANDRONICKIE LAUTH, individually;)
LEPORE FAMILY TRUST DATED OCTOBER)
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MONICA-MEYERS, individually; MARK)
MONACO, individually; SAMIR FARID)
MOUJAES AND SYLVA PUZANTIAN)
MOUJAES LIVING TRUST u/t/d August 13,)
2013; BUD O'BRIEN and ROSALIE O'BRIEN,)
individually; DAVID L. POWELL and JUNE D.)
COOPER, individually; RANDALL and NICOLE)
ROEDECKER, individually; EUGENIUSZ and)

1 ZOFIA SUCHECKI, individually; GARY G.
2 TON, individually; ROY and SHARON VAN
3 SLYKE, individually; LAUREL YVONNE
4 WEAVER, individually; SCOTT M. ZIPKIN and
5 ROBERT A. & ELLEN R. ZIPKIN, individually;
6 MICHAEL J. and GLORIA NAN CONNOLLY,
7 individually; ROBERT and CONCETTA
8 GAYNOR, individually; HECTOR G. and
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25 WI JO KANG and CHONG-JA KANG,
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27 DIONISIO ONG, individually; POURZIAEE
28 ERAJ AND SEDI POURZIAEE JOINT LIVING
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WILLIAM R. and NANCY WALLEY, JR.,
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and MARIA MOORE, individually;

Plaintiffs,

v.

DEL WEBB COMMUNITIES, INC., an Arizona
Corporation; and DOES 1 through 500, inclusive,
Defendants.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

DATED this 24th day of December, 2015 SHINNICK RYAN & RANSAVAGE P.C.

Attorneys for Plaintiffs

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Exhibit “1”

CLERK OF THE COURT

JUDG

Duane E. Shinnick, Esq.

Bar No. 7176

Courtney K. Lee, Esq.

Bar No. 8154

SHINNICK, RYAN & RANSAVAGE P.C.

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{00263896.DOC}

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22 WYNSIE MARIE CHAN, individually;
23 ROBERT M. DYKEMA, individually; BROCK
24 and REANNA FOSTER, individually; J C F
25 FAMILY TRUST; WI JO KANG and CHONG-
26 JA KANG, individually; TAKESHI NAKAYA,
27 individually; DIONISIO ONG, individually;
28 POURZIAEE ERAJ AND SEDI POURZIAEE
JOINT LIVING TRUST; JOSEPH and
MILAGROS RIVERA, individually;
SALISBURY FAMILY TRUST; WILLIAM A.
and CYNTHIA J. SHOOP, individually;
RONALD TURNER, individually; BRENT and
SARA URE, individually; WILLIAM R. and
NANCY WALLEY, JR., individually; KIEL
YOST, individually; STEVEN and MARIA
MOORE, individually;

Plaintiffs,

v.

DEL WEBB COMMUNITIES, INC., an Arizona
Corporation; and DOES 1 through 500,
inclusive,

Defendants.

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FINAL JUDGMENT

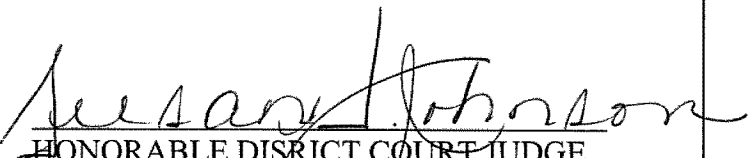
On June 23, 2015, before the Honorable Susan H. Johnson in Department XXII of the above-referenced Court, Defendant brought on for hearing their Motion to Dismiss ("Motion") filed on May 19, 2015.

Duane E. Shinnick, Esq. of Shinnick, Ryan & Ransavage, P.C. appeared on behalf of Plaintiffs, and Richard D. Young, Esq. of Koeller, Nebeker, Carlson & Haluck, LLP appeared on behalf of Defendant Del Webb Communities, Inc. All other appearances noted on the record.


Pursuant to NRCP 54(b), the Court, finding there is no just reason for delay and upon the express direction for the entry of final judgment, final judgment is hereby entered only as to Plaintiffs Ronald Turner ("Turner") and Robert M. Dykema ("Dykema") based upon the Order dated November 25, 2015 ("Order"). The Order granted Defendant Del Webb Communities, Inc.'s ("Del Webb") Motion to Dismiss Plaintiffs Turner and Dykema, inter alia. Because the Court considered material outside of the pleadings - the notices of completion - in dismissing Plaintiffs Turner and Dykema, such dismissals operated as summary judgments. The Order found that Turner's and Dykema's constructional defect claims are time-barred by the ten (10) Statute(s) of Repose, NRS 11.203 and/or limitations.

IT IS SO ORDERED.

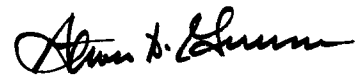
DATED this 22nd day of Dec., 2015.


HONORABLE DISTRICT COURT JUDGE
A714632 15

Respectfully Submitted by:
SHINNICK, RYAN & RANSVAGE P.C.

By: 
Duane E. Shinnick, Esq.
Bar No. 7176
Courtney K. Lee, Esq.
Bar No. 8154
Attorneys for PLAINTIFFS

{00263896.DOC}



CLERK OF THE COURT

FFCO

DISTRICT COURT
CLARK COUNTY, NEVADA

SCOTT PHILLIPS, individually; TEODORO H. and ROSA-LINIDA R. BAUTISTA, individually; BROWER FAMILY TRUST, individually; CHARLES COLUCCI, individually; HARRY E. CROSBY REVOCABLE TRUST; DR. KAREN FELDMAN, individually; COLLEN T. SAN FILIPPO, individually; THE GILLES FAMILY LIVING TRUST DATED JANUARY 14, 2014; DAVID M. GORDON, individually; CHARLES and MARIA HEARN, individually; THOMAS C. and KATHLEEN A. JOHNSON, individually; AARON KNUDSON, individually; LORRAINE JOHNSON, individually; JOLEAN JONES, individually; YOUNG KYOON KIM and INOK KIM, individually; MIKE and TALIA LAQUITARA, individually; JAMES and ANDRONICKIE LAUTH, individually; LEPORE FAMILY TRUST DATED OCTOBER 30, 2008; JOHN LEVERITT, individually; ROGER A. MARTIN AND VIRGINIA C. MARTIN JOINT LIVING TRUST; MASLIN FAMILY LIVING TRUST DATED JANUARY 24, 2011; THOMAS MEYERS and MARY CM MONICA-MEYERS, individually; MARK MONACO, individually; SAMIR FARID MOUJAES AND SYLVA PUZANTIAN MOUJAES LIVING TRUST u/t/d August 13, 2013; BUD O'BRIEN and ROSALIE O'BRIEN, individually; DAVID L. POWELL and JUNE D. COOPER, individually; RANDALL and NICOLE ROEDECKER, individually; EUGENIUSZ and ZOFIA SUCHECKI, individually; GARY G. TON, individually; ROY and SHARON VAN SLYKE, individually; LAUREL YVONNE WEAVER, individually; SCOTT M. ZIPKIN and ROBERT A & ELLEN R. ZIPKIN, individually; MICHAEL J. and GLORIA NAN CONNOLLY, individually; ROBERT and CONCETTA GAYNOR,

Case No. A-15-714632-D

Dept. No. XXII

ORDER RE: DEFENDANT DEL
WEBB COMMUNITIES, INC.'S
MOTION TO DISMISS

1 individually; HECTOR G. and ROSARIO
2 GARCIA, individually; JAMES A.
3 HENDERSON, JR., individually; HOWARD S.
4 and ROBERTA P. LEVINE, individually;
5 KURT FIELD and CRISTEN BOLANDER-
6 FIELD, individually; BOBBIE SMITH,
7 individually; CHAD and ALLICIA TOMOLA,
8 individually; WILLIAM and CONNIE
9 MCDERMOTT, individually; SYDNEY WOO,
10 individually; PREMIERE HOLDINGS
11 RESIDENTIAL DIVISION, LLC, a Nevada
12 limited liability company; VEROL R. and
13 DEBRA A. BELLINFANTE, individually;
14 ALFREDO and ILUMINADO CAMPOS,
15 individually; WYNSIE MARIE CHAN,
16 individually; ROBERT M. DYKEMA,
17 individually; BROCK and REANNA FOSTER,
18 individually; J.C.F. FAMILY TRUST; WI JO
19 KANG and CHONG-JA KANG, individually;
20 TAKESHI NAKAYA, individually; DIONISIO
21 ONG, individually; POURZIAEE ERAJ AND
22 SEDI POURZIAEE JOINT LIVING TRUST;
23 JOSEPH and MILAGROS RIVERA,
24 individually; SALISBURY FAMILY TRUST;
25 WILLIAM A. and CYNTHIA J. SHOOP,
26 individually; RONALD TURNER,
27 individually; BRENT and SARA URE,
28 individually; WILLIAM R. and NANCY
WALLEY, JR., individually; KEIL YOST,
individually; STEVEN and MARIA MOORE,
individually,

Plaintiffs,

Vs.

DEL WEBB COMMUNITIES, INC., an
Arizona Corporation, and DOES 1-500,

Defendants.

ORDER RE: DEFENDANT DEL WEBB COMMUNITIES, INC.'S MOTION TO DISMISS

This matter, concerning Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss filed May 19, 2015, came on for hearing on the 23rd day of June 2015 at the hour of 10:30 a.m. before Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with JUDGE SUSAN H. JOHNSON presiding; Plaintiffs SCOTT PHILLIPS, TEODORO H. and

1 ROSA-LINIDA R. BAUTISTA, BROWER FAMILY TRUST, CHARLES COLUCCI, HARRY E.
2 CROSBY REVOCABLE TRUST; DR. KAREN FELDMAN, COLLEN T. SAN FILIPPO, THE
3 GILLES FAMILY LIVING TRUST DATED JANUARY 14, 2014; DAVID M. GORDON,
4 CHARLES and MARIA HEARN, THOMAS C. and KATHLEEN A. JOHNSON, AARON
5 KNUDSON, LORRAINE JOHNSON, JOLEAN JONES, YOUNG KYOON KIM and INOK KIM,
6 MIKE and TALIA LAQUITARA, JAMES and ANDRONICKIE LAUTH, LEPORE FAMILY
7 TRUST DATED OCTOBER 30, 2008; JOHN LEVERITT, ROGER A. MARTIN AND VIRGINIA
8 C. MARTIN JOINT LIVING TRUST; MASLIN FAMILY LIVING TRUST DATED JANUARY
9 24, 2011; THOMAS MEYERS and MARY CM MONICA-MEYERS, MARK MONACO, SAMIR
10 FARID MOUJAES AND SYLVA PUZANTIAN MOUJAES LIVING TRUST u/t/d August 13,
11 2013; BUD O'BRIEN and ROSALIE O'BRIEN, DAVID L. POWELL and JUNE D. COOPER,
12 RANDALL and NICOLE ROEDECKER, EUGENIUSZ and ZOFIA SUCHECKI, GARY G. TON,
13 ROY and SHARON VAN SLYKE, LAUREL YVONNE WEAVER, SCOTT M. ZIPKIN and
14 ROBERT A & ELLEN R. ZIPKIN, MICHAEL J. and GLORIA NAN CONNOLLY, ROBERT and
15 CONCETTA GAYNOR, HECTOR G. and ROSARIO GARCIA, JAMES A. HENDERSON, JR.,
16 HOWARD S. and ROBERTA P. LEVINE, KURT FIELD and CRISTEN BOLANDER-FIELD,
17 BOBBIE SMITH, CHAD and ALLICIA TOMOLA, WILLIAM and CONNIE MCDERMOTT,
18 SYDNEY WOO, PREMIERE HOLDINGS RESIDENTIAL DIVISION, LLC, VEROL R. and
19 DEBRA A. BELLINFANTE, ALFREDO and ILUMINADO CAMPOS, WYNSIE MARIE CHAN,
20 ROBERT M. DYKEMA, BROCK and REANNA FOSTER, J.C.F. FAMILY TRUST; WI JO
21 KANG and CHONG-JA KANG, TAKESHI NAKAYA, DIONISIO ONG, POURZIAEE ERAJ
22 AND SEDI POURZIAEE JOINT LIVING TRUST; JOSEPH and MILAGROS RIVERA,
23 SALISBURY FAMILY TRUST, WILLIAM A. and CYNTHIA J. SHOOP, RONALD TURNER,
24 BRENT and SARA URE, WILLIAM R. and NANCY WALLEY, JR., KEIL YOST, STEVEN and
25
26
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1 MARIA MOORE, by and through their attorney, DUANE E. SHINNICK, ESQ. of the law firm,
2 SHINNICK RYAN & RANSAVAGE; and Defendant DEL WEBB COMMUNITIES, INC. appeared
3 by and through its attorney, RICHARD D. YOUNG, ESQ. of the law firm, KOELLER NEBEKER
4 CARLSON & HALUCK. Having reviewed the papers and pleadings on file herein, heard oral
5 arguments of the lawyers, and taken this matter under advisement, this Court makes the following
6 Findings of Fact and Conclusions of Law:
7

8 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

9 1. This case arises as a result of alleged constructional defects suffered by 62
10 homeowners/homeowner groups living in single family homes within Del Webb's Anthem
11 Highlands residential development. Many of the Plaintiff homeowners/homeowner groups filed the
12 initial Complaint against Defendant DEL WEBB COMMUNITIES, INC. on February 27, 2015,
13 alleging claims of (1) breach of contract and express warranties, (2) breach of implied warranties,
14 (3) negligence and negligence *per se* and (4) breach of implied warranty of habitability, and all
15 brought pursuant to NRS 40.600, *et seq.* The Complaint was subsequently amended on March 6,
16 2015 to include the constructional defect claims of additional homeowners/homeowner groups.
17

18 2. Defendant DEL WEBB COMMUNITIES, INC. moves this Court to dismiss the
19 claims of six (6) Plaintiff homeowners/homeowner groups identified and upon the bases listed
20 below:
21

22 a. Plaintiffs SALISBURY FAMILY TRUST, RONALD TURNER, ROBERT
23 DYKEMA and TAKESHI NAKAYA as their claims are time-barred by the applicable Statute of
24 Repose. According to Defendant, these particular plaintiffs first asserted claims of constructional
25 defects more than ten (10) years after the date of substantial completion.
26

27 ...

28 ...

1 Plaintiffs and Defendant produced exhibits for consideration and they were not excluded by the
2 Court. The standard by which this Court decides Defendant DEL WEBB COMMUNITIES, INC.'S
3 Motion to Dismiss is that set forth by NRCP 56.

4 2. Summary judgment is appropriate and "shall be rendered forthwith" when the
5 pleadings and other evidence on file demonstrate no "genuine issue as to any material fact [remains]
6 and that the moving party is entitled to a judgment as a matter of law." See NRCP 56(c); Wood v.
7 Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026 (2005). The substantive law controls which
8 factual disputes are material and will preclude summary judgment; other factual disputes are
9 irrelevant. Id., 121 Nev. at 731. A factual dispute is genuine when the evidence is such that a
10 rational trier of fact could return a verdict for the non-moving party. Id., 121 Nev. at 731.

11 3. While the pleadings and other proof must be construed in a light most favorable to
12 the non-moving party, that party bears the burden "to do more than simply show that there is some
13 metaphysical doubt" as to the operative facts in order to avoid summary judgment bent entered in
14 the moving party's favor. Matsushita Electric Industrial Co. v. Zenith Radio, 475 U.S. 574, 586
15 (1986), cited by Wood, 121 Nev. at 732. The non-moving party "must, by affidavit or otherwise, set
16 forth specific facts demonstrating the existence of a genuine issue for trial or have summary
17 judgment entered against him." Bulbman Inc. v. Nevada Bell, 108 Nev. 105, 110, 825 P.2d 588, 591
18 (1992), cited by Wood, 121 Nev. at 732. The non-moving party "'is not entitled to build a case on
19 the gossamer threads of whimsy, speculation, and conjecture.'" Bulbman, 108 Nev. at 110, 825 P.2d
20 591, quoting Collins v. Union Fed. Savings & Loan, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).

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22
23
24 **Plaintiffs DIONISIO ONG and TAKESHI NAKAYA**

25 3. Here, Plaintiffs do not oppose Defendant DEL WEBB COMMUNITIES, INC.'S
26 motion as it seeks dismissal of claims lodged by Plaintiffs DIONISIO ONG and TAKESHI
27 NAKAYA. As there is no opposition, this Court grants Defendant's motion as it pertains to the
28

1 constructional defects claims of Plaintiffs ONG and NAKAYA. *Also see* EDCR 2.20(e).

2 **Plaintiffs SALISBURY FAMILY TRUST, RONALD TURNER and ROBERT DYKEMA**

3 4. As noted above, Defendant DEL WEBB COMMUNITIES, INC. moves this Court to
4 dismiss the constructional defect claims lodged by Plaintiffs SALISBURY FAMILY TRUST,
5 RONALD TURNER and ROBERT DYKEMA upon the basis they are barred by the ten-year Statute
6 of Repose.²

7
8 5. Prior to February 25, 2015,³ NRS 11.203(1) provided an action based upon a known
9 deficiency may not be brought “more than 10 years after the substantial completion of such an
10 improvement...”⁴ NRS 11.2055 defines the “date of substantial completion;” it states in salient
11 part:

12 1. Except as otherwise provided in subsection 2, for the purposes of NRS 11.202
13 to 11.206, inclusive, the date of substantial completion of an improvement to real property
14 shall be deemed to be the date on which:

- 15 (a) The final building inspection of the improvement is conducted;
16 (b) A notice of completion is issued for the improvement; or
17 (c) A certificate of occupancy is issued for the improvement,
18 *whichever occurs later.* (Emphasis added)

19 6. Notwithstanding the aforementioned, if the injury occurs in the tenth (10th) year after
20 substantial completion of such an improvement, an action for damages for injury to property or
21 person may be commenced within two (2) years after the date of such injury. *See* NRS 11.203(2).⁵

22 7. In this case, a “Certificate of Occupancy” for the home located at 2798 Lochleven

23 ²Defendant does not concede the appropriate Statute of Repose period is ten (10) years, or that set forth in NRS
24 11.203. Its position is, irrespective of the Statute of Repose imposed, whether it be six (6), eight (8) or ten (10), the
25 claims of Plaintiffs SALISBURY FAMILY TRUST, RONALD TURNER and ROBERT DYKEMA are time-barred.

26 ³With the enactment of Assembly Bill (AB) 125 in late February 2015, the Statute of Repose is now six (6)
27 years from date of the residence’s substantial completion. For purposes of the instant motion, however, this Court
28 applies the pre-AB 125 Statute of Repose periods, which include the ten (10) year Statute of Repose set forth by NRS
11.203.

⁴NRS 11.204(1) provided an action based on a latent deficiency may not be commenced “more than 8 years
after the substantial completion of such an improvement” and NRS 11.205(1) set forth an action based upon a patent
defect may not be commenced “more than 6 years after the substantial completion of such an improvement...”

⁵The tenth (10th) year is defined as starting as the beginning of the nine-year anniversary and ending on the
tenth anniversary. An action for injury occurring between the start of Year 9 and ending the tenth (10th) anniversary may
be commenced within two (2) years thereafter.

1 Way, Henderson, Nevada and owned by Plaintiff SALISBURY FAMILY TRUST was issued by the
2 City of Henderson on November 23, 2004.⁶ A "Notice of Completion" was issued by Defendant
3 DEL WEBB COMMUNITIES, INC. approximately a month later, on December 30, 2004.⁷ As NRS
4 11.2055(1) specifically provides the date of substantial completion is the latter of three events, i.e.
5 final building inspection being conducted, the issuance of the certificate of occupancy, or when the
6 notice of completion is issued, this Court concludes the date the SALISBURY FAMILY TRUST
7 home was substantially completed is December 30, 2004.

9 Plaintiff SALISBURY FAMILY TRUST served its NRS 40.645 notice on December 30,
10 2014.⁸ While it is Plaintiff's view such notice served on the last day is timely, Defendant disagrees.
11 Defendant proposes the last day to serve a notice pursuant to NRS 40.645 was December 29, 2014.
12 This Court found no authority within the Nevada Revised Statutes, and particularly within NRS
13 40.600, *et seq.*, to support either party's position. However, the timeliness of a document's filing is
14 addressed within the Nevada Rules of Civil Procedure (NRCP), and particularly, in Rule 6. It
15 provides in pertinent part:

17 (a) *Computation.* In computing any period of time prescribed or allowed by these
18 rules, by the local rules of any district court, by order of court, or by any applicable statute,
19 the day of the act, event, or default from which the designated period time begins to run shall
20 not be included. The last day of the period so computed shall be included, unless it is a
21 Saturday, a Sunday, or a non-judicial day, in which event the period runs until the end of the
22 next day which is not a Saturday, a Sunday, or a non-judicial day or, when the act to be done
23 is the filing of a paper in court, a day on which whether or other conditions have made the
24 office of the clerk of the district court inaccessible, in which event the period runs until the
25 end of the next day which is not one of the aforementioned days. (Emphasis added)

26 Here, the day of the act, i.e. the issuance of the Notice of Completion, is not included within
27 the computation when the designated time begins to run. See NRCP 6(a). The designated time to
28

⁶See Exhibit A attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss filed May 19, 2015.

⁷See Exhibit 2 to Plaintiffs' Limited Opposition to Del Webb Communities, Inc.'s Motion to Dismiss filed June 5, 2015. No evidence was presented when the final building inspection was conducted; presumably, the inspection was conducted prior to the City of Henderson issuing the "Certificate of Occupancy."

⁸See Exhibit E attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss.

1 run begins December 31, 2004. Accordingly, assuming the appropriate period for the Statute of
2 Repose is ten (10) years,⁹ Plaintiff SALISBURY FAMILY TRUST served its notice of
3 constructional defects timely when such was sent on the last day, December 30, 2014. Defendant
4 DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss, as it pertains to the claims of Plaintiff
5 SALISBURY FAMILY TRUST, is denied.

6 As it has concluded SALISBURY FAMILY TRUST timely served its NRS 40.645 notice,
7 and thus, this Plaintiff's claims do not warrant dismissal, this Court declines to consider whether the
8 action is "saved" by application of NRS 11.203's "savings clause."

10 8. The issuance of the "Certificate of Occupancy" for the residence owned by Plaintiff
11 RONALD TURNER, 2844 Blythwood Square, Henderson, Nevada, was December 6, 2004.¹⁰ The
12 "Notice of Completion" was issued eight (8) days later, December 14, 2004.¹¹ This Court concludes
13 Plaintiff TURNER'S home was substantially completed on the latter date, December 14, 2004. *See*
14 NRS 11.2055. Plaintiff TURNER served his NRS 40.645 notice of constructional defects on
15 December 22, 2014. Unfortunately, such service falls outside the ten-year Statute of Repose period,
16 and, as a consequence, Plaintiff RONALD TURNER'S constructional defect claims must be
17 dismissed as being time-barred. *See* NRS 11.203.

19 Plaintiff TURNER proposes his claims are not time-barred as the "Notice of Completion"
20 was not recorded until December 23, 2004. While this Court appreciates his stance, NRS 11.2055
21 does not identify the recording of the completion's notice at the local or county recorder's office as a
22 defining date for substantial completion. As noted above, NRS 11.2055 specifically provides the
23 improvement to real property is substantially completed upon the occurrence of the latter of three
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26
27 ⁹Again, for purposes of this motion, this Court appreciates Defendant addresses the ten-year Statute of Repose,
28 but has not conceded it is the appropriate time frame.

¹⁰*See* Exhibit B attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss.

¹¹*See* Exhibit 3 attached to Plaintiffs' Opposition to Del Webb Communities, Inc.'s Motion to Dismiss.

1 events: (1) the final building inspection, (2) the issuance of the Certificate of Occupancy, or (3) the
2 issuance of the Notice of Completion, *whichever is later*. This Court declines Plaintiff's invitation
3 for it to interpret or expand the statute to include another and different definition for "substantially
4 completed."

5 9. The "Certificate of Occupancy" was issued for Plaintiff ROBERT DYKEMA'S
6 house, 2818 Craigton Drive, Henderson, Nevada on November 2, 2004.¹² The "Notice of
7 Completion" was issued on November 30, 2004.¹³ The NRS 40.645 Notice served by Plaintiff
8 DYKEMA upon Defendant DEL WEBB COMMUNITIES, INC. is dated December 2, 2014.¹⁴ The
9 service of the constructional defects notice pursuant to NRS 40.645 falls outside the ten-year Statute
10 of Repose period, and as a consequence, Plaintiff DYKEMA'S constructional defect claims are
11 time-barred and must be dismissed.
12

13 As it notes concerning MR. TURNER'S claims, the recording of the Notice of Completion,
14 which, in Plaintiff DYKEMA'S case, was December 8, 2004, is not a defining event. Again, this
15 Court declines to consider the recording date as another date of substantial completion, or when the
16 Statute of Repose period begins.
17

18 **Claims of Plaintiffs STEVEN MOORE and MARIA MOORE**

19 10. As noted above, Defendant DEL WEBB COMMUNITIES, INC. proposes the
20 constructional defect claims of Plaintiffs STEVEN MOORE and MARIA MOORE should be
21 dismissed given their failure to abide by NRS Chapter 40's pre-litigation requirements. This Court
22 understands these Plaintiffs served their initial NRS 40.645 Notice on February 26, 2015, utilizing
23 the statute's pre-AB 125 requirements. Assembly Bill (AB) 125 requirements went into effect
24 February 25, 2015. Plaintiffs STEVEN MOORE and MARIA MOORE supplemented or amended
25
26

27 ¹²See Exhibit C attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss.

28 ¹³See Exhibit 4 attached to Plaintiffs' Opposition to Del Webb Communities, Inc.'s Motion to Dismiss.

¹⁴See Exhibit G attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss.

1 their NRS 40.645 on May 27, 2015 to comply with the AB 125 newly-enacted requirements.¹⁵

2 11. Although these Plaintiffs may have complied with the new requirements of NRS
3 40.645, there is no indication within their Opposition to suggest they complied with the other
4 requisites of NRS Chapter 40. In this Court's view, Plaintiffs STEVEN MOORE and MARIA
5 MOORE must comply with all the pre-litigation requirements of NRS 40.600, *et seq.* before they
6 can institute litigation. For this reason, this Court grants Defendant DEL WEBB COMMUNITIES,
7 INC.'S Motion to Dismiss as it pertains to the constructional defect claims of STEVEN MOORE
8 and MARIA MOORE *without prejudice*.

10 12. Notably, these Plaintiffs have set forth dismissal of this action could result in their
11 being forever time-barred in bringing their constructional defect claims, and, for that reason, this
12 Court should stay the action to allow the completion of the NRS Chapter 40 pre-litigation process.
13 *See* NRS 40.647. This Court disagrees with Plaintiffs' assessment. As the NRS Chapter 40 pre-
14 litigation process has not concluded, it continues and any pertinent limiting statute is tolled. *See*
15 NRS 40.695. Plaintiffs must conclude the pre-litigation process, and should their constructional
16 defects not be repaired or resolved, they can either file a new complaint or move this Court to
17 include their claims along with those of their neighbors.

19 Accordingly, and based upon the aforementioned Findings of Fact and Conclusions of Law,

20 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Defendant DEL WEBB
21 COMMUNITIES, INC.'S Motion to Dismiss filed May 19, 2015 is granted in part, denied in part;

22 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** the claims brought by
23 Plaintiffs DIONISIO ONG and TAKESHI NAKAYA is dismissed, as unopposed;

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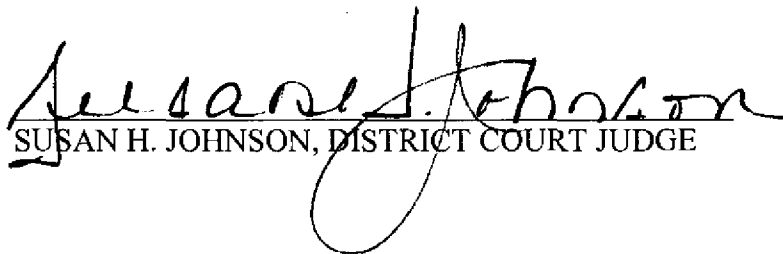
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28 ¹⁵See Exhibit I attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss, *and* Exhibit 6
to Plaintiffs' Opposition to Del Webb Communities, Inc.'s Motion to Dismiss.

1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** the constructional defect
2 claims brought by Plaintiffs RONALD TURNER and ROBERT DYKEMA are dismissed as being
3 time-barred pursuant to the ten (10) year Statute of Repose, NRS 11.203;

4 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** the constructional defect
5 claims brought by Plaintiffs STEVEN MOORE and MARIA MOORE are dismissed, *without*
6 *prejudice*, for failing to abide by and complete the pre-litigation process set forth by NRS 40.600, *et*
7 *seq.*, prior to the filing of their First Amended Complaint; and

8
9 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** Defendant DEL WEBB
10 COMMUNITIES, INC.'S Motion to Dismiss, seeking dismissal of Plaintiff SALISBURY FAMILY
11 TRUST'S constructional defect claims are denied as, in this Court's view, the NRS 40.645 notice
12 was timely served upon this Defendant, whereby this Plaintiff's claims are not time-barred. *See*
13 NRS 11.203.

14
15 DATED and DONE this 16th day of November 2015.

16
17 
18 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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richard.young@knchlaw.com

SUSAN H. JOHNSON
DISTRICT JUDGE
DEPARTMENT XXII

NEO

JASON W. WILLIAMS, ESQ.

Nevada Bar No. 8310

RICHARD D. YOUNG, ESQ.

Nevada Bar No. 11331

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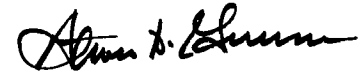
Phone: (702) 853-5500

Fax: (702) 853-5599

Attorneys for Defendant

Del Webb Communities, Inc.

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

SCOTT PHILLIPS, individually; TEODORO)
H. and ROSA-LINDA R. BAUTISTA,)
individually; BROWER FAMILY TRUST,)
individually; CHARLES COLUCCI,)
individually; HARRY E. CROSBY)
REVOCABLE TRUST; DR. KAREN)
FELDMAN, individually; COLLEN T. SAN)
FILIPPO, individually; THE GILLES FAMILY)
LIVING TRUST, DATED JANUARY 14,)
2014; DAVID M. GORDON, individually;)
CHARLES and MARIA HEARN, individually;)
THOMAS C. and KATHLEEN A. JOHNSON,)
individually; AARON KNUDSON,)
individually; LORRAINE JOHNSON,)
individually; JOLEAN JONES, individually;)
YOUNG KYOON KIM and INOK KIM,)
individually; MIKE and TALIA LAQUITARA,)
individually; JAMES and ANDRONICKIE)
LAUTH, individually; LEPORE FAMILY)
TRUST DATED OCTOBER 30, 2008; JOHN)
LEVERITT, individually; ROGER A. MARTIN)
and VIRGINIA C. MARTIN JOINT LIVING)
TRUST; MASLIN FAMILY LIVING TRUST)
DATED JANUARY 24, 2011; THOMAS)
MEYERS and MARY CM MONICA-)
MEYERS, individually; MARK MONACO,)
individually; SAMIR FARID MOUJAES and)
SYLVA PUZANTIAN MOUJAES LIVING)
TRUST u/t/d August 13, 2013; BUD O'BRIEN)
and ROSALIE O'BRIEN, individually; DAVID)
L. POWELL and JUNE D. COOPER,)
individually; RANDALL and NICOLE)
ROEDECKER, individually; EUGENIUSZ and)
ZOFIA SUCHECKI, individually; GARY G.)
TON, individually; ROY and SHARON VAN)
SLYKE, individually; LAUREL YVONNE)
WEAVER, individually; SCOTT M. ZIPKIN)

CASE NO.: A714632

DEPT. NO.: XXII

**NOTICE OF ENTRY OF ORDER
RE: DEFENDANT DEL WEBB
COMMUNITIES, INC.'S MOTION
TO DISMISS**

1 and ROBERT A. & ELLEN R. ZIPKIN,)
individually; MICHAEL J. and GLORIA NAN)
2 CONNOLLY, individually; ROBERT AND)
CONCETTA GAYNOR, individually;)
3 HECTOR G. and ROSARIO GARCIA,)
individually; JAMES A. HENDERSON JR.,)
4 individually; HOWARD S. and ROBERTA P.)
LEVINE, individually; KURT FIELD and)
5 CRISTEN BOLANDER-FIELD, individually;)
BOBBIE SMITH, individually; CHAD and)
6 ALLICIA TOMOLA, individually; WILLIAM)
and CONNIE MCDERMOTT, individually;)
7 SYDNEY WOO, individually; PREMIERE)
HOLDINGS RESIDENTIAL DIVISION, LLC,)
a Nevada limited-Liability Company; VEROL)
8 R. and DEBRA A. BELLINFANTE,)
individually; ALFREDO and ILUMINADA)
9 CAMPOS, individually; WYNSIE MARIE)
CHAN, individually; ROBERT M. DYKEMA,)
10 individually; BROCK and REANNA FOSTER,)
individually; J C F FAMILY TRUST; WI JO)
11 KANG and CHONG-JA KANG, individually;)
TAKESHI NAKAYA, individually; DIONISIO)
12 ONG, individually; POURZIAEE ERAJ AND)
SEDI POURZIAEE JOINT LIVING TRUST;)
13 JOSEPH and MILAGROS RIVERA,)
individually; SALISBURY FAMILY TRUST;)
14 WILLIAM A. and CYNTHIA J. SHOOP,)
individually; RONALD TURNER, individually;)
15 BRENT and SARA URE, individually;)
WILLIAM R. and NANCY WALLEY JR.,)
16 individually; KIEL YOST, individually;)
STEVEN and MARIA MOORE, individually;)

17
18 Plaintiffs)

19 vs.)

20 DEL WEBB COMMUNITIES, INC., an)
Arizona Corporation, and DOES 1-500,)

21 Defendants.)
22
23

24 YOU AND EACH OF YOU, PLEASE TAKE NOTICE that an Order Re: Defendant

25 Del Webb Communities, Inc.'s Motion to Dismiss was

1 entered in the above-entitled action on November 16, 2015. A true and correct copy of is
2 attached hereto.

3 Dated this 25th day of November, 2015.

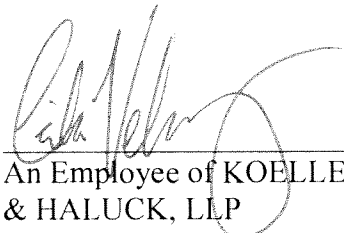
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5 KOELLER, NEBEKER, CARLSON
& HALUCK, LLP

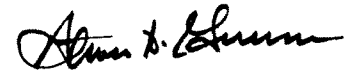
6
7 BY: 

8 RICHARD D. YOUNG, ESQ.
9 Nevada Bar. No. 11331
300 S. Fourth St., Suite 500
10 Las Vegas, NV 89101
Phone: (702) 853-5500
11 Fax: (702) 853-5599
Attorneys for Defendant Del Webb
12 Communities, Inc.

13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that on the 25th day of November, 2015, I served a true and
15 correct copy of the foregoing Notice of Entry of Order Re: Defendant Del Webb
16 Communities, Inc.'s Motion to Dismiss by electronically serving all parties via the Court's
17 Electronic Filing System.

18
19 
20
21 An Employee of KOELLER, NEBEKER, CARLSON
& HALUCK, LLP
22
23
24
25
26
27
28



CLERK OF THE COURT

FFCO

DISTRICT COURT
CLARK COUNTY, NEVADA

SCOTT PHILLIPS, individually; TEODORO H. and ROSA-LINIDA R. BAUTISTA, individually; BROWER FAMILY TRUST, individually; CHARLES COLUCCI, individually; HARRY E. CROSBY REVOCABLE TRUST; DR. KAREN FELDMAN, individually; COLLEN T. SAN FILIPPO, individually; THE GILLES FAMILY LIVING TRUST DATED JANUARY 14, 2014; DAVID M. GORDON, individually; CHARLES and MARIA HEARN, individually; THOMAS C. and KATHLEEN A. JOHNSON, individually; AARON KNUDSON, individually; LORRAINE JOHNSON, individually; JOLEAN JONES, individually; YOUNG KYOON KIM and INOK KIM, individually; MIKE and TALIA LAQUITARA, individually; JAMES and ANDRONICKIE LAUTH, individually; LEPORE FAMILY TRUST DATED OCTOBER 30, 2008; JOHN LEVERITT, individually; ROGER A. MARTIN AND VIRGINIA C. MARTIN JOINT LIVING TRUST; MASLIN FAMILY LIVING TRUST DATED JANUARY 24, 2011; THOMAS MEYERS and MARY CM MONICA-MEYERS, individually; MARK MONACO, individually; SAMIR FARID MOUJAES AND SYLVA PUZANTIAN MOUJAES LIVING TRUST u/t/d August 13, 2013; BUD O'BRIEN and ROSALIE O'BRIEN, individually; DAVID L. POWELL and JUNE D. COOPER, individually; RANDALL and NICOLE ROEDECKER, individually; EUGENIUSZ and ZOFIA SUCHECKI, individually; GARY G. TON, individually; ROY and SHARON VAN SLYKE, individually; LAUREL YVONNE WEAVER, individually; SCOTT M. ZIPKIN and ROBERT A & ELLEN R. ZIPKIN, individually; MICHAEL J. and GLORIA NAN CONNOLLY, individually; ROBERT and CONCETTA GAYNOR,

Case No. A-15-714632-D

Dept. No. XXII

ORDER RE: DEFENDANT DEL
WEBB COMMUNITIES, INC.'S
MOTION TO DISMISS

1 individually; HECTOR G. and ROSARIO
2 GARCIA, individually; JAMES A.
3 HENDERSON, JR., individually; HOWARD S.
4 and ROBERTA P. LEVINE, individually;
5 KURT FIELD and CRISTEN BOLANDER-
6 FIELD, individually; BOBBIE SMITH,
7 individually; CHAD and ALLICIA TOMOLA,
8 individually; WILLIAM and CONNIE
9 MCDERMOTT, individually; SYDNEY WOO,
10 individually; PREMIERE HOLDINGS
11 RESIDENTIAL DIVISION, LLC, a Nevada
12 limited liability company; VEROL R. and
13 DEBRA A. BELLINFANTE, individually;
14 ALFREDO and ILUMINADO CAMPOS,
15 individually; WYNSIE MARIE CHAN,
16 individually; ROBERT M. DYKEMA,
17 individually; BROCK and REANNA FOSTER,
18 individually; J.C.F. FAMILY TRUST; WI JO
19 KANG and CHONG-JA KANG, individually;
20 TAKESHI NAKAYA, individually; DIONISIO
21 ONG, individually; POURZIAEE ERAJ AND
22 SEDI POURZIAEE JOINT LIVING TRUST;
23 JOSEPH and MILAGROS RIVERA,
24 individually; SALISBURY FAMILY TRUST;
25 WILLIAM A. and CYNTHIA J. SHOOP,
26 individually; RONALD TURNER,
27 individually; BRENT and SARA URE,
28 individually; WILLIAM R. and NANCY
WALLEY, JR., individually; KEIL YOST,
individually; STEVEN and MARIA MOORE,
individually,

Plaintiffs,

Vs.

DEL WEBB COMMUNITIES, INC., an
Arizona Corporation, and DOES 1-500,

Defendants.

ORDER RE: DEFENDANT DEL WEBB COMMUNITIES, INC.'S MOTION TO DISMISS

This matter, concerning Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss filed May 19, 2015, came on for hearing on the 23rd day of June 2015 at the hour of 10:30 a.m. before Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with JUDGE SUSAN H. JOHNSON presiding; Plaintiffs SCOTT PHILLIPS, TEODORO H. and

1 ROSA-LINIDA R. BAUTISTA, BROWER FAMILY TRUST, CHARLES COLUCCI, HARRY E.
2 CROSBY REVOCABLE TRUST; DR. KAREN FELDMAN, COLLEN T. SAN FILIPPO, THE
3 GILLES FAMILY LIVING TRUST DATED JANUARY 14, 2014; DAVID M. GORDON,
4 CHARLES and MARIA HEARN, THOMAS C. and KATHLEEN A. JOHNSON, AARON
5 KNUDSON, LORRAINE JOHNSON, JOLEAN JONES, YOUNG KYOON KIM and INOK KIM,
6 MIKE and TALIA LAQUITARA, JAMES and ANDRONICKIE LAUTH, LEPORE FAMILY
7 TRUST DATED OCTOBER 30, 2008; JOHN LEVERITT, ROGER A. MARTIN AND VIRGINIA
8 C. MARTIN JOINT LIVING TRUST; MASLIN FAMILY LIVING TRUST DATED JANUARY
9 24, 2011; THOMAS MEYERS and MARY CM MONICA-MEYERS, MARK MONACO, SAMIR
10 FARID MOUJAES AND SYLVA PUZANTIAN MOUJAES LIVING TRUST u/t/d August 13,
11 2013; BUD O'BRIEN and ROSALIE O'BRIEN, DAVID L. POWELL and JUNE D. COOPER,
12 RANDALL and NICOLE ROEDECKER, EUGENIUSZ and ZOFIA SUCHECKI, GARY G. TON,
13 ROY and SHARON VAN SLYKE, LAUREL YVONNE WEAVER, SCOTT M. ZIPKIN and
14 ROBERT A & ELLEN R. ZIPKIN, MICHAEL J. and GLORIA NAN CONNOLLY, ROBERT and
15 CONCETTA GAYNOR, HECTOR G. and ROSARIO GARCIA, JAMES A. HENDERSON, JR.,
16 HOWARD S. and ROBERTA P. LEVINE, KURT FIELD and CRISTEN BOLANDER-FIELD,
17 BOBBIE SMITH, CHAD and ALLICIA TOMOLA, WILLIAM and CONNIE MCDERMOTT,
18 SYDNEY WOO, PREMIERE HOLDINGS RESIDENTIAL DIVISION, LLC, VEROI. R. and
19 DEBRA A. BELLINFANTE, ALFREDO and ILUMINADO CAMPOS, WYNSIE MARIE CHAN,
20 ROBERT M. DYKEMA, BROCK and REANNA FOSTER, J.C.F. FAMILY TRUST; WI JO
21 KANG and CHONG-JA KANG, TAKESHI NAKAYA, DIONISIO ONG, POURZIAEE ERAJ
22 AND SEDI POURZIAEE JOINT LIVING TRUST; JOSEPH and MILAGROS RIVERA,
23 SALISBURY FAMILY TRUST, WILLIAM A. and CYNTHIA J. SHOOP, RONALD TURNER,
24 BRENT and SARA URE, WILLIAM R. and NANCY WALLEY, JR., KEIL YOST, STEVEN and

1 MARIA MOORE, by and through their attorney, DUANE E. SHINNICK, ESQ. of the law firm,
2 SHINNICK RYAN & RANSAVAGE; and Defendant DELWEBB COMMUNITIES, INC. appeared
3 by and through its attorney, RICHARD D. YOUNG, ESQ. of the law firm, KOELLER NEBEKER
4 CARLSON & HALUCK. Having reviewed the papers and pleadings on file herein, heard oral
5 arguments of the lawyers, and taken this matter under advisement, this Court makes the following
6 Findings of Fact and Conclusions of Law:
7

8 **FINDINGS OF FACT AND PROCEDURAL HISTORY**

9 1. This case arises as a result of alleged constructional defects suffered by 62
10 homeowners/homeowner groups living in single family homes within Del Webb's Anthem
11 Highlands residential development. Many of the Plaintiff homeowners/homeowner groups filed the
12 initial Complaint against Defendant DEL WEBB COMMUNITIES, INC. on February 27, 2015,
13 alleging claims of (1) breach of contract and express warranties, (2) breach of implied warranties,
14 (3) negligence and negligence *per se* and (4) breach of implied warranty of habitability, and all
15 brought pursuant to NRS 40.600, *et seq.* The Complaint was subsequently amended on March 6,
16 2015 to include the constructional defect claims of additional homeowners/homeowner groups.
17

18 2. Defendant DEL WEBB COMMUNITIES, INC. moves this Court to dismiss the
19 claims of six (6) Plaintiff homeowners/homeowner groups identified and upon the bases listed
20 below:
21

22 a. Plaintiffs SALISBURY FAMILY TRUST, RONALD TURNER, ROBERT
23 DYKEMA and TAKESHI NAKAYA as their claims are time-barred by the applicable Statute of
24 Repose. According to Defendant, these particular plaintiffs first asserted claims of constructional
25 defects more than ten (10) years after the date of substantial completion.
26

27 ...

28 ...

c. Plaintiffs STEVEN MOORE and MARIA MOORE failed to comply with the pre-litigation requirements of NRS 40.600, and thus, until they do abide by all such requisites, they cannot file their lawsuit, whereby their claims should be dismissed.

CONCLUSIONS OF LAW

¹See NRCP 12(b)(5).

1 Plaintiffs and Defendant produced exhibits for consideration and they were not excluded by the
2 Court. The standard by which this Court decides Defendant DEL WEBB COMMUNITIES, INC.'S
3 Motion to Dismiss is that set forth by NRCP 56.

4 2. Summary judgment is appropriate and "shall be rendered forthwith" when the
5 pleadings and other evidence on file demonstrate no "genuine issue as to any material fact [remains]
6 and that the moving party is entitled to a judgment as a matter of law." See NRCP 56(c); Wood v.
7 Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026 (2005). The substantive law controls which
8 factual disputes are material and will preclude summary judgment; other factual disputes are
9 irrelevant. Id., 121 Nev. at 731. A factual dispute is genuine when the evidence is such that a
10 rational trier of fact could return a verdict for the non-moving party. Id., 121 Nev. at 731.

12 3. While the pleadings and other proof must be construed in a light most favorable to
13 the non-moving party, that party bears the burden "to do more than simply show that there is some
14 metaphysical doubt" as to the operative facts in order to avoid summary judgment bent entered in
15 the moving party's favor. Matsushita Electric Industrial Co. v. Zenith Radio, 475 U.S. 574, 586
16 (1986), cited by Wood, 121 Nev. at 732. The non-moving party "must, by affidavit or otherwise, set
17 forth specific facts demonstrating the existence of a genuine issue for trial or have summary
18 judgment entered against him." Bulbman Inc. v. Nevada Bell, 108 Nev. 105, 110, 825 P.2d 588, 591
19 (1992), cited by Wood, 121 Nev. at 732. The non-moving party "is not entitled to build a case on
20 the gossamer threads of whimsy, speculation, and conjecture.'" Bulbman, 108 Nev. at 110, 825 P.2d
21 591, quoting Collins v. Union Fed. Savings & Loan, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).

24 **Plaintiffs DIONISIO ONG and TAKESHI NAKAYA**

25 3. Here, Plaintiffs do not oppose Defendant DEL WEBB COMMUNITIES, INC.'S
26 motion as it seeks dismissal of claims lodged by Plaintiffs DIONISIO ONG and TAKESHI
27 NAKAYA. As there is no opposition, this Court grants Defendant's motion as it pertains to the
28

1 constructional defects claims of Plaintiffs ONG and NAKAYA. *Also see* EDCR 2.20(e).

2 **Plaintiffs SALISBURY FAMILY TRUST, RONALD TURNER and ROBERT DYKEMA**

3 4. As noted above, Defendant DEL WEBB COMMUNITIES, INC. moves this Court to
4 dismiss the constructional defect claims lodged by Plaintiffs SALISBURY FAMILY TRUST,
5 RONALD TURNER and ROBERT DYKEMA upon the basis they are barred by the ten-year Statute
6 of Repose.²

7
8 5. Prior to February 25, 2015,³ NRS 11.203(1) provided an action based upon a known
9 deficiency may not be brought “more than 10 years after the substantial completion of such an
10 improvement....”⁴ NRS 11.2055 defines the “date of substantial completion;” it states in salient
11 part:

12 1. Except as otherwise provided in subsection 2, for the purposes of NRS 11.202
13 to 11.206, inclusive, the date of substantial completion of an improvement to real property
14 shall be deemed to be the date on which:

- 15 (a) The final building inspection of the improvement is conducted;
16 (b) A notice of completion is issued for the improvement; or
17 (c) A certificate of occupancy is issued for the improvement,
18 *whichever occurs later.* (Emphasis added)

19 6. Notwithstanding the aforementioned, if the injury occurs in the tenth (10th) year after
20 substantial completion of such an improvement, an action for damages for injury to property or
21 person may be commenced within two (2) years after the date of such injury. *See* NRS 11.203(2).⁵

22 7. In this case, a “Certificate of Occupancy” for the home located at 2798 Lochleven

23 ²Defendant does not concede the appropriate Statute of Repose period is ten (10) years, or that set forth in NRS
24 11.203. Its position is, irrespective of the Statute of Repose imposed, whether it be six (6), eight (8) or ten (10), the
25 claims of Plaintiffs SALISBURY FAMILY TRUST, RONALD TURNER and ROBERT DYKEMA are time-barred.

26 ³With the enactment of Assembly Bill (AB) 125 in late February 2015, the Statute of Repose is now six (6)
27 years from date of the residence’s substantial completion. For purposes of the instant motion, however, this Court
28 applies the pre-AB 125 Statute of Repose periods, which include the ten (10) year Statute of Repose set forth by NRS
11.203.

⁴NRS 11.204(1) provided an action based on a latent deficiency may not be commenced “more than 8 years
after the substantial completion of such an improvement” and NRS 11.205(1) set forth an action based upon a patent
defect may not be commenced “more than 6 years after the substantial completion of such an improvement....”

⁵The tenth (10th) year is defined as starting as the beginning of the nine-year anniversary and ending on the
tenth anniversary. An action for injury occurring between the start of Year 9 and ending the tenth (10th) anniversary may
be commenced within two (2) years thereafter.

1 Way, Henderson, Nevada and owned by Plaintiff SALISBURY FAMILY TRUST was issued by the
2 City of Henderson on November 23, 2004.⁶ A "Notice of Completion" was issued by Defendant
3 DEL WEBB COMMUNITIES, INC. approximately a month later, on December 30, 2004.⁷ As NRS
4 11.2055(1) specifically provides the date of substantial completion is the latter of three events, i.e.
5 final building inspection being conducted, the issuance of the certificate of occupancy, or when the
6 notice of completion is issued, this Court concludes the date the SALISBURY FAMILY TRUST
7 home was substantially completed is December 30, 2004.
8

9 Plaintiff SALISBURY FAMILY TRUST served its NRS 40.645 notice on December 30,
10 2014.⁸ While it is Plaintiff's view such notice served on the last day is timely, Defendant disagrees.
11 Defendant proposes the last day to serve a notice pursuant to NRS 40.645 was December 29, 2014.
12 This Court found no authority within the Nevada Revised Statutes, and particularly within NRS
13 40.600, *et seq.*, to support either party's position. However, the timeliness of a document's filing is
14 addressed within the Nevada Rules of Civil Procedure (NRCP), and particularly, in Rule 6. It
15 provides in pertinent part:
16

17 (a) *Computation.* In computing any period of time prescribed or allowed by these
18 rules, by the local rules of any district court, by order of court, *or by any applicable statute*,
19 the day of the act, event, or default from which the designated period time begins to run shall
20 not be included. The last day of the period so computed shall be included, unless it is a
21 Saturday, a Sunday, or a non-judicial day, in which event the period runs until the end of the
22 next day which is not a Saturday, a Sunday, or a non-judicial day or, when the act to be done
23 is the filing of a paper in court, a day on which whether or other conditions have made the
24 office of the clerk of the district court inaccessible, in which event the period runs until the
25 end of the next day which is not one of the aforementioned days. (Emphasis added)

26 Here, the day of the act, i.e. the issuance of the Notice of Completion, is not included within
27 the computation when the designated time begins to run. See NRCP 6(a). The designated time to
28

⁶See Exhibit A attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss filed May 19, 2015.

⁷See Exhibit 2 to Plaintiffs' Limited Opposition to Del Webb Communities, Inc.'s Motion to Dismiss filed June 5, 2015. No evidence was presented when the final building inspection was conducted; presumably, the inspection was conducted prior to the City of Henderson issuing the "Certificate of Occupancy."

⁸See Exhibit E attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss.

1 run begins December 31, 2004. Accordingly, assuming the appropriate period for the Statute of
2 Repose is ten (10) years,⁹ Plaintiff SALISBURY FAMILY TRUST served its notice of
3 constructional defects timely when such was sent on the last day, December 30, 2014. Defendant
4 DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss, as it pertains to the claims of Plaintiff
5 SALISBURY FAMILY TRUST, is denied.

6 As it has concluded SALISBURY FAMILY TRUST timely served its NRS 40.645 notice,
7 and thus, this Plaintiff's claims do not warrant dismissal, this Court declines to consider whether the
8 action is "saved" by application of NRS 11.203's "savings clause."

10 8. The issuance of the "Certificate of Occupancy" for the residence owned by Plaintiff
11 RONALD TURNER, 2844 Blythswood Square, Henderson, Nevada, was December 6, 2004.¹⁰ The
12 "Notice of Completion" was issued eight (8) days later, December 14, 2004.¹¹ This Court concludes
13 Plaintiff TURNER'S home was substantially completed on the latter date, December 14, 2004. *See*
14 NRS 11.2055. Plaintiff TURNER served his NRS 40.645 notice of constructional defects on
15 December 22, 2014. Unfortunately, such service falls outside the ten-year Statute of Repose period,
16 and, as a consequence, Plaintiff RONALD TURNER'S constructional defect claims must be
17 dismissed as being time-barred. *See* NRS 11.203.

19 Plaintiff TURNER proposes his claims are not time-barred as the "Notice of Completion"
20 was not recorded until December 23, 2004. While this Court appreciates his stance, NRS 11.2055
21 does not identify the recording of the completion's notice at the local or county recorder's office as a
22 defining date for substantial completion. As noted above, NRS 11.2055 specifically provides the
23 improvement to real property is substantially completed upon the occurrence of the latter of three
24

26
27 ⁹Again, for purposes of this motion, this Court appreciates Defendant addresses the ten-year Statute of Repose,
but has not conceded it is the appropriate time frame.

28 ¹⁰See Exhibit B attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss.

¹¹See Exhibit 3 attached to Plaintiffs' Opposition to Del Webb Communities, Inc.'s Motion to Dismiss.

1 events: (1) the final building inspection, (2) the issuance of the Certificate of Occupancy, or (3) the
2 issuance of the Notice of Completion, *whichever is later*. This Court declines Plaintiff's invitation
3 for it to interpret or expand the statute to include another and different definition for "substantially
4 completed."

5 9. The "Certificate of Occupancy" was issued for Plaintiff ROBERT DYKEMA'S
6 house, 2818 Craigton Drive, Henderson, Nevada on November 2, 2004.¹² The "Notice of
7 Completion" was issued on November 30, 2004.¹³ The NRS 40.645 Notice served by Plaintiff
8 DYKEMA upon Defendant DEL WEBB COMMUNITIES, INC. is dated December 2, 2014.¹⁴ The
9 service of the constructional defects notice pursuant to NRS 40.645 falls outside the ten-year Statute
10 of Repose period, and as a consequence, Plaintiff DYKEMA'S constructional defect claims are
11 time-barred and must be dismissed.
12

13 As it notes concerning MR. TURNER'S claims, the recording of the Notice of Completion,
14 which, in Plaintiff DYKEMA'S case, was December 8, 2004, is not a defining event. Again, this
15 Court declines to consider the recording date as another date of substantial completion, or when the
16 Statute of Repose period begins.
17

18 **Claims of Plaintiffs STEVEN MOORE and MARIA MOORE**

19 10. As noted above, Defendant DEL WEBB COMMUNITIES, INC. proposes the
20 constructional defect claims of Plaintiffs STEVEN MOORE and MARIA MOORE should be
21 dismissed given their failure to abide by NRS Chapter 40's pre-litigation requirements. This Court
22 understands these Plaintiffs served their initial NRS 40.645 Notice on February 26, 2015, utilizing
23 the statute's pre-AB 125 requirements. Assembly Bill (AB) 125 requirements went into effect
24 February 25, 2015. Plaintiffs STEVEN MOORE and MARIA MOORE supplemented or amended
25
26

27 ¹²See Exhibit C attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss.

28 ¹³See Exhibit 4 attached to Plaintiffs' Opposition to Del Webb Communities, Inc.'s Motion to Dismiss.

¹⁴See Exhibit G attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss.

1 their NRS 40.645 on May 27, 2015 to comply with the AB 125 newly-enacted requirements.¹⁵

2 **11.** Although these Plaintiffs may have complied with the new requirements of NRS
3 40.645, there is no indication within their Opposition to suggest they complied with the other
4 requisites of NRS Chapter 40. In this Court's view, Plaintiffs STEVEN MOORE and MARIA
5 MOORE must comply with all the pre-litigation requirements of NRS 40.600, *et seq.* before they
6 can institute litigation. For this reason, this Court grants Defendant DEL WEBB COMMUNITIES,
7 INC.'S Motion to Dismiss as it pertains to the constructional defect claims of STEVEN MOORE
8 and MARIA MOORE *without prejudice*.

10 **12.** Notably, these Plaintiffs have set forth dismissal of this action could result in their
11 being forever time-barred in bringing their constructional defect claims, and, for that reason, this
12 Court should stay the action to allow the completion of the NRS Chapter 40 pre-litigation process.
13 *See* NRS 40.647. This Court disagrees with Plaintiffs' assessment. As the NRS Chapter 40 pre-
14 litigation process has not concluded, it continues and any pertinent limiting statute is tolled. *See*
15 NRS 40.695. Plaintiffs must conclude the pre-litigation process, and should their constructional
16 defects not be repaired or resolved, they can either file a new complaint or move this Court to
17 include their claims along with those of their neighbors.

19 Accordingly, and based upon the aforementioned Findings of Fact and Conclusions of Law,

20 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** Defendant DEL WEBB
21 COMMUNITIES, INC.'S Motion to Dismiss filed May 19, 2015 is granted in part, denied in part;
22

23 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** the claims brought by
24 Plaintiffs DIONISIO ONG and TAKESHI NAKAYA is dismissed, as unopposed;
25

26 ...

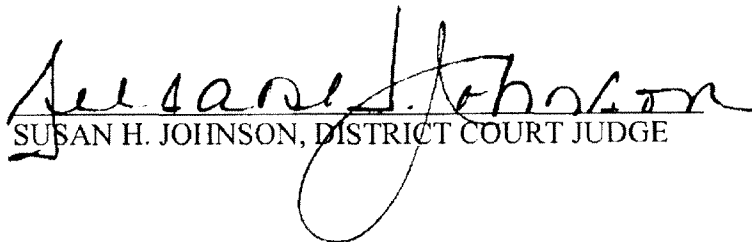
27
28 ¹⁵See Exhibit I attached to Defendant DEL WEBB COMMUNITIES, INC.'S Motion to Dismiss, and Exhibit 6
to Plaintiffs' Opposition to Del Webb Communities, Inc.'s Motion to Dismiss.

1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** the constructional defect
2 claims brought by Plaintiffs RONALD TURNER and ROBERT DYKEMA are dismissed as being
3 time-barred pursuant to the ten (10) year Statute of Repose, NRS 11.203;

4 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** the constructional defect
5 claims brought by Plaintiffs STEVEN MOORE and MARIA MOORE are dismissed, *without*
6 *prejudice*, for failing to abide by and complete the pre-litigation process set forth by NRS 40.600, *et*
7 *seq.*, prior to the filing of their First Amended Complaint; and

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** Defendant DEL WEBB
9 COMMUNITIES, INC.'S Motion to Dismiss, seeking dismissal of Plaintiff SALISBURY FAMILY
10 TRUST'S constructional defect claims are denied as, in this Court's view, the NRS 40.645 notice
11 was timely served upon this Defendant, whereby this Plaintiff's claims are not time-barred. *See*
12 NRS 11.203.
13

14 DATED and DONE this 16th day of November 2015.
15

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17 
18 SUSAN H. JOHNSON, DISTRICT COURT JUDGE
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28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that, on the 16th day of November 2015, I electronically served (E-served),
3 placed within the attorneys' folders located on the first floor of the Regional Justice Center or mailed
4 a true and correct copy of the foregoing ORDER RE: DEFENDANT DEL WEBB COMMUNITIES,
5 INC.'S MOTION TO DISMISS to the following counsel of record, and first-class postage was fully
6 prepaid thereon:
7

8 DUANE E. SHINNICK, ESQ.
9 SHINNICK RYAN & RANSAVAGE, P.C.
4001 Meadows Lane
10 Las Vegas, Nevada 89107
11 dshinnick@ssllplaw.com

12 RICHARD D. YOUNG, ESQ.
13 KOELLER NEBEKER CARLSON & HALUCK, LLP
300 South Fourth Street, Suite 500
14 Las Vegas, Nevada 89101
richard.young@knchlaw.com

15 
16 Laura Banks, Judicial Executive Assistant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

June 23, 2015

A-15-714632-D Scott Phillips, Plaintiff(s)
vs.
Del Webb Communities, Inc. , Defendant(s)

June 23, 2015 10:30 AM Motion to Dismiss

HEARD BY: Johnson, Susan **COURTROOM:** RJC Courtroom 15D

COURT CLERK: Melissa Murphy

RECORDER: Norma Ramirez

REPORTER:

PARTIES

PRESENT: Shinnick, Duane E. Attorney
 Young, Richard D Attorney

JOURNAL ENTRIES

- COURT noted it appeared there were no disputes as to claims against Plaintiff's Nakaya and Ong homes and therefore ORDERED, Motion to Dismiss GRANTED.

Arguments by counsel regarding applicable case law; whether the 6 year, 8 year or 10 year period of repose applied; whether the Chapter 40 notices were untimely or insufficient; whether there were valid allegations in the pleadings and disputes as to the definition of issuance. COURT FURTHER ORDERED, matter TAKEN UNDER ADVISEMENT with respects to Plaintiff's Moore, Turner, Dykema and Salisbury.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Chapter 40

COURT MINUTES

November 16, 2015

A-15-714632-D Scott Phillips, Plaintiff(s)
vs.
Del Webb Communities, Inc. , Defendant(s)

November 16, 2015 3:00 AM Decision

HEARD BY: Johnson, Susan **COURTROOM:**

COURT CLERK: Melissa Murphy

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT, having heard Defendant Del Webb Communities, Inc.'s Motion to Dismiss on 06/23/15, and having taken the matter under advisement, thereafter ORDERED, Defendant DEL WEBB COMMUNITIES, INC. S Motion to Dismiss filed May 19, 2015 is GRANTED IN PART, DENIED IN PART;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED the claims brought by Plaintiffs DIONISIO ONG and TAKESHI NAKAYA is DISMISSED, as unopposed;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED the constructional defect claims brought by Plaintiffs RONALD TURNER and ROBERT DYKEMA are DISMISSED as being time-barred pursuant to the ten (10) year Statute of Repose, NRS 11.203;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED the constructional defect claims brought by Plaintiffs STEVEN MOORE and MARIA MOORE are DISMISSED, without prejudice, for failing to abide by and complete the pre-litigation process set forth by NRS 40.600, et seq., prior to the filing of their First Amended Complaint; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED Defendant DEL WEBB COMMUNITIES, INC. S Motion to Dismiss, seeking dismissal of Plaintiff SALISBURY FAMILY TRUST S constructional defect claims are DENIED as, in this Court s view, the NRS 40.645 notice was timely served upon this Defendant, whereby this Plaintiff s claims are not time-barred. See NRS 11.203.

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

AMENDED NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; DISTRICT COURT CIVIL COVER SHEET; FINAL JUDGMENT RE: PLAINTIFFS RONALD TURNER AND ROBERT DYKEMA; NOTICE OF ENTRY OF FINAL JUDGMENT RE: PLAINTIFFS RONALD TURNER AND ROBERT DYKEMA; ORDER RE: DEFENDANT DEL WEBB COMMUNITIES, INC.'S MOTION TO DISMISS; NOTICE OF ENTRY OF ORDER RE: DEFENDANT DEL WEBB COMMUNITIES, INC.'S MOTION TO DISMISS; DISTRICT COURT MINUTES

SCOTT PHILLIPS; TEODORO H. BAUTISTA; ROSA-LINDA R. BAUTISTA; BROWER FAMILY TRUST; CHARLES COLUCCI; HARRY E. CROSBY REVOCABLE TRUST; KAREN FELDMAN; COLLEEN T. SAN FILIPPO; THE GILLES FAMILY LIVING TRUST, DATED JANUARY 14, 2010; DAVID M. GORDON; CHARLES HEARN; MARIA HEARN; THOMAS C. JOHNSON; KATHLEEN A. JOHNSON; AARON KNUDSON; LORRAINE JOHNSON; JOLEAN JONES; YOUNG KYOON KIM; INOK KIM; MIKE LAQUITARA; TALIA LAQUITARA; JAMES LAUTH; ANDRONICKIE LAUTH; LEPORE FAMILY TRUST DATED OCTOBER 30, 2008; JOHN LEVERITT; ROGER A. MARTIN AND VIRGINIA C. MARTIN JOINT LIVING TRUST; MASLIN FAMILY LIVING TRUST DATED JANUARY 24, 2011; THOMAS MEYERS; MARY C. MONICA-MEYERS; MARK MONACO; SAMIR FARID MOUJAES AND SYLVA PUZANTIAN MOUJAES LIVING TRUST u/t/d August 13, 2013; BUD O'BRIEN; ROSALIE O'BRIEN; DAVID L. POWELL; JUNE D. COOPER; RANDALL ROEDECKER; NICOLE ROEDECKER; EUGENIUSZ SUCHECKI; ZOFIA SUCHECKI; GARY G. TON; ROY VAN SLYKE; SHARON VAN SLYKE; LAUREL YVONNE WEAVER; SCOTT M. ZIPKIN; ROBERT A. ZIPKIN; ELLEN R. ZIPKIN; MICHAEL J. CONNOLLY; GLORIA

Case No: A714632

Dept No: XXII

NAN CONNOLLY; ROBERT GAYNOR;
CONCETTA GAYNOR; HECTOR G.
GARCIA; ROSARIO GARCIA; JAMES A.
HENDERSON JR.; HOWARD S. LEVINE;
ROBERTA P. LEVINE; KURT FIELD;
CRISTEN BOLANDER-FIELD; BOBBIE
SMITH; CHAD TOMOLO; ALLICIA
TOMOLO; WILLIAM MCDERMOTT;
CONNIE MCDERMOTT; SYDNEY WOO;
PREMIERE HOLDINGS RESIDENTIAL
DIVISION, LLC; VEROL R. BELLINFANTE;
DEBRA A. BELLINFANTE; ALFREDO
CAMPOS; ILUMINADA CAMPOS; WYNSIE
MARIE CHAN; ROBERT M. DYKEMA;
BROCK FOSTER; REANNA FOSTER; J C F
FAMILY TRUST; WI JO KANG; CHONG-JA
KANG; TAKESHI NAKAYA; DIONISIO
ONG; POURZIAEE ERAJ AND SEDI
POURZIAEE JOINT LIVING TRUST; JOSEPH
RIVERA; MILAGROS RIVERA; SALISBURY
FAMILY TRUST; WILLIAM A. SHOOP;
CYNTHIA J. SHOOP; RONALD TURNER;
BRENT URE; SARA URE; WILLIAM R.
WALLEY, JR.; NANCY WALLEY; KIEL
YOST; STEVEN MOORE; MARIA MOORE,

Plaintiff(s),

vs.

DEL WEBB COMMUNITIES, INC.,

Defendant(s),

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 29 day of December 2015.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk